

OVERVIEW: TREATMENT OF GEAR SWITCHING OVERAGES

The action alternatives would modify the shoreside individual fishing quota (IFQ) program by imposing restrictions on vessels' ability to use gears other than trawl (gear switch) to catch northern sablefish. Each alternative uses a different method for achieving the restrictions. The alternatives are:

- Alternative 1: Gear Specific Quota Pounds (QP) (Trawl-only and unrestricted gear northern sablefish QP)
- Alternative 2: Gear Switching Endorsements (larger annual gear-switching limits for permits with gear-switching endorsements as compared to permits without such endorsements)
- Alternative 3: Active Trawler Requirement and Exemptions (one percent annual gear switch limits for vessels that meet an active trawler requirement and different limits for historic gear switchers that receive an exemption from the active trawler requirement).

None of the alternatives would include gear switching limits for species other than northern sablefish. This paper describes a policy issue concerning the handling of overages in excess of the gear switching limits that apply to a vessel (in some cases via the permit associated with the vessel).

Overage Issue

For Alternative 1, an overage would be handled similarly to the current IFQ program. Under the IFQ program, if a vessel catches more of a species than it has QP for, then it is not able to resume fishing until the deficit is covered. Under Alternative 1, if a vessel lands with fixed gear more northern sablefish QP than it has unrestricted QP, then the fish can be landed and sold but the vessel is not allowed to resume fishing until the deficit is covered with unrestricted QPs. Under this system, as with the overall IFQ program, if a vessel does not have enough QP to cover its catch, then it might have to carry the deficit over to the following year. The overall annual vessel limit of 4.5 percent would remain in place for sablefish north (combined trawl only and unrestricted QPs).

For Alternatives 2 and 3, the gear switching limits would not be tied to QP but rather be an annual gear switching limit determined based on the characteristics of the permit associated with a vessel (the presence of gear-switching endorsements or exemptions) or the vessel's status as an active trawler. The limits would be in terms of an amount of northern sablefish QP that could be used for gear switching.

If a vessel could fish up to and stop at a limit with certainty, there would probably not be a concern with overages, since it would be expected that the vessel would have full control over its compliance. However, vessels have imperfect knowledge about the amount of gear-switched northern sablefish catch that may have already been debited against their account (due to a lag in the processing of observer or electronic monitoring data) and uncertainty about the amount of

catch that will be taken on particular sets (or the amount that is already in the vessel's hold). Therefore, if the Council is going to provide a gear switching limit, it might also be appropriate to provide vessels an opportunity to reach the limit with minimal risk of a violation. Alternatively, it could be just understood that while the policy provides a gear switching limit, it is not realistic to expect that vessels complying with the program will be able to take full advantage of the limit. This would then need to be taken into account in development of the policy and analysis of the nature of the opportunities being provided.

Handling Overages and Prohibited Species Under Current Management

A gear switching limit overage might be thought of as somewhat similar to a cumulative limit overage, the landing of a prohibited species, or an overage of an annual vessel QP limit.

With respect to a cumulative limit overage, processors are allowed to receive and sell the overage through normal channels, but the vessel is not allowed to receive payment for that overage (processors pay the state for the overage instead). One of the concerns about this policy is with boats owned by processing companies. Under such circumstances, even though the vessel does not receive compensation, the company still benefits from the landing through the processing and sale of the fish. Vessels are potentially subject to enforcement action for cumulative limit overages.

With respect to the landing of a prohibited species, processors are allowed to receive the fish but regulations prohibit the fish from reaching commercial markets. This generally means the fish must be donated; however, there have been a number of cost and seafood safety related challenges with preparing and packaging the fish for charitable donation and finding the charities willing to receive the fish. Therefore, the states have allowed some of the fish to be rendered (i.e., made into fish meal). While such rendered product technically reaches a commercial market, its value to the processor is considered de minimis. In some areas (such as California), there are not rendering plants readily available, making both charitable donation and rendering options a challenge. Under some circumstances, vessels are permitted to land prohibited species and therefore are not subject to enforcement action.

For a vessel that exceeds its annual vessel QP limit, the first challenge is that the vessel is not allowed to transfer QP in excess of that limit into its account. Therefore, when a vessel goes over its limit, it will incur a deficit. And, since vessels in deficit are not allowed to take another IFQ trip, a vessel with an annual vessel limit overage is not able to resume fishing until the following year, at which time it is allowed to acquire the QP necessary to cover the overage. For any particular species, a vessel may carry-over a QP deficit of up to 10 percent of its total QP for the year. If a vessel's deficit is greater than the vessel's carryover limit 30 days after the date the deficit is documented, then additional enforcement actions may occur.

Options for Handling Gear-Switching Limit Overages

A fleet overage for annually issued QP amounts is potentially a threat to achievement of annual fishery limits based on conservation objectives. Unless it leads to a fleet overage, an overage for an annual vessel QP limits is a concern only with respect to the socio-economic objectives

related to the dispersion of catch among a greater number of participants. Similarly, a gear-switching overage would also be a concern with respect to socio-economic rather than conservation objectives. If the intent is to allow vessels an opportunity to take full advantage of the limit provided, how might the provision be specified so that unintentional overages do not result in penalizing the vessel? Staff has identified three possibilities for SaMTAAC consideration (noting that there may be others):

When a vessel reaches the gear-switching limit (as determined by the permit registered to the vessel), it ...

Overage Option 1: ...must discard any sablefish caught in excess of the limit (survival credit is provided) ...

Overage Option 2: ...may retain any sablefish caught in excess of the limit but such sablefish may not reach the commercial market (may only be donated or rendered as fish meal)...

Overage Option 3: ...may retain and sell any sablefish caught in excess of the limit ...

...and [for all options] it may not deploy non-trawl gear on any trawl IFQ sector trips taken during the remainder of the year. All sablefish overages must be covered by sablefish north QP.

With respect to the discard approach (Option 1), under the current IFQ program, a vessel account is debited based on total catch (landings + discards), which limits the vessel's ability to come into compliance through discard (whether it be a limit based on the amount of QP in the vessel account or the annual vessel QP limit). This contrasts with cumulative trip limits (or the tier limit in the fixed gear sablefish fishery), which a vessel can comply with by discarding at-sea. Those discards do not count against the trip limits (or the fixed gear tier limit).¹ The newly implemented IFQ sablefish survival credit may provide vessels with an opportunity to comply with limits through sablefish discards. They are relevant here because the annual gear switching limit is structured as a limit on the amount of QP that can be used for gear switching. For fixed gear, the mortality rate is assumed to be 20 percent, implying a discard survival credit of 80 percent. Therefore, if, for example, a vessel found itself over its gear switching limit by 100 pounds, by discarding 125 pounds it would bring itself in compliance with the gear switching limit by reducing the amount of QP used for gear switching by 100 pounds ($0.8 \times 125 = 100$).

However, a vessel might not have good information about what has already been caught or may not accurately assess what is already in its hold and so still end up with an overage when it lands, risking a violation. While cumulative limit overages brought to shore may result in the vessel's forfeiture of the value of the fish and a vessel violation (with the fish continuing on into the commercial market), under Option 1, the vessel would be able to avoid the violation by returning to sea and discarding the overage. Enforcement concerns over this approach include the need to monitor the discard, ensuring that the fish is not transferred to another vessel or otherwise diverted to the commercial market before the vessel returns to sea. Other questions and concerns to address might be the distance out a vessel would be required to go to discard fish, how soon

¹ Discards for these fisheries are accounted for off-the-top of the fixed gear allocation based on historical discard amounts.

the vessel would have to embark on the discard effort, and whether it could also fish on the same trip on which it discards. Additionally, the discard credit would likely need to be reduced or eliminated for fish that are brought to port; and the additional discarding anticipated under Option 1 would diminish achievement of MSA bycatch reduction objectives but might help achieve other objectives. Under this option, there would still be a possibility that the overage would be processed and sent to market before the vessel, processor, or enforcement realized there was an overage (resulting a potential violation for the vessel).

Option 2 would function similarly to what is described for prohibited species. A vessel that brings the overage to shore would not be considered in violation, but there may be challenges with incentives for company vessels to exceed limits, recruitment of charities willing to receive the fish, and the availability of rendering facilities for disposal of fish that cannot be given to charities. Increased rendering of sablefish would likely diminish achievement of MSA optimum yield objectives but might help achieve other objectives. As with Option 1, there would still be a possibility that the overage would be processed and sent to market before the vessel, processor, or enforcement realized there was an overage (resulting a potential violation for the vessel).

Under Option 3, the limits would not really be a limit in that vessels would be permitted to land in excess of the limit without being in violation of the program, similar to the annual vessel limit. The limit would function more as a threshold trigger that, when reached, prohibits the vessel from making additional gear switching trips. Perhaps a label other than “limit” might be applied to make it clear that vessels are not being allowed to land in excess of limits (i.e., violate rules of the program) but rather the allowance is a feature of the program. The Option 3 approach might result in strategies such as fishing relatively close to the limit then making one last trip to get a boat load of additional fish, most of which would be over the threshold/limit. Under Option 3, if a vessel makes a delivery and does not realize it has reached the threshold, there would not be a compliance issue (potential vessel violation) until the vessel departed on its next gear-switched trip. Even then, current prohibitions on fishing while in deficit are based on when the deficit shows up in the account. A similar rule with respect to gear-switching might provide some additional leeway for information lags. Enforcement representatives consulted in the development of this paper suggested that the SaMTAAC might want to consider capping the “permitted overage” at 5 or 10 percent of the amount of gear switching limit remaining when the vessel started its trip. This would be similar to the provision for deficit carry-overs described above. As with all catch, the gear-switching overage would need to be covered by QP and a policy call would need to be made as to whether the 5 or 10 percent overage would be permitted without further consequence, reduce carryover in the following year, or have some other consequence.

Gear Switching Vessels Without a Sablefish Gear Switching Limit

The above approaches all require the vessel to stop fishing after reaching its sablefish gear-switching limit. Under Alternative 2, all trawl IFQ vessels would have some sablefish gear switching limit and so could choose to use that limit to target sablefish or cover sablefish bycatch while targeting other species. Under Alternative 3, there is a group of vessels that would not have any sablefish limit but would be allowed to target non-sablefish species while gear-switching (vessels that are neither active trawlers nor exempted from the active trawl

requirement). A question remains as to how the sablefish taken on those trips would be covered. From 2011-2019 north of 36° N. lat., there were 18 fixed gear trips by four vessels where less than 25 percent of the catch (by weight) was sablefish. Those trips with some sablefish north (i.e. excluding gear switching trips with no sablefish) averaged about 2,000 pounds of sablefish north, which accounted for just under five percent of the total trip revenue.